

MASSACHUSETTS

DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

FY 2005
Massachusetts Community
Development Block Grant
Program

Architectural/Engineering Design
with CDBG

Technical Assistance Guide



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ARCHITECTURAL/ENGINEERING DESIGN WITH CDBG

Cities and towns may use Community Development Block Grant (CDBG) funds for a wide range of activities. These activities include architectural and engineering plans and specifications undertaken for CDBG-eligible projects and intended to meet DHCD's application threshold requirement for bid-ready documents.

All proposed architectural and engineering design activities must directly address a need or problem stated in the application and outlined in the applicant's Community Development Strategy, be eligible under the provisions of Title I of the Housing and Community Development Act (HCDA) of 1974, as amended, and meet one of two CDBG national objectives.

Eligibility

Title I provides for the eligibility of design activities related to construction at Sections 105(a)(2), 105(a)(4), and 105(a)(5) of the HCDA as follows:

- the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;
- clearance, demolition, removal, reconstruction and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately-owned properties and including the renovation of closed school buildings); and
- special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.

Architectural or Engineering Plans and Specifications

Beginning in FY 2005 DHCD will require bid-ready documents as a threshold for public facilities and architectural barrier removal projects of \$100,000 or more. Communities are eligible, and are in fact encouraged, to apply for funds to prepare such documents for CDBG-eligible projects. While bid-ready documents are not a threshold for infrastructure projects, the cost of preparing engineering plans for CDBG-eligible infrastructure projects are also eligible. However, architectural and engineering costs for a project that on its own would be ineligible, such as new housing construction, cannot be undertaken with CDBG funds.

National Objective

Architectural and engineering costs are considered to be part of the cost of a construction project; the design costs associated with rehabilitating a public facility are considered as part of that public facility project, engineering costs for a waterline are considered as part of that infrastructure project.

Architectural and engineering costs can only meet a national objective if the implemented project would meet a national objective. Applicants must demonstrate, as part of the activity packet, that the proposed design activity and ultimately the project if implemented, will (a) benefit low- and moderate-income persons or (b) aid in the prevention or elimination of slums and blight. **Furthermore, the *construction* project itself must be implemented in order for the *design* activity to meet the required national objective. Therefore, before a community applies for architectural and engineering funds, it should seriously consider the likelihood of the construction project coming to fruition.**

It is important to note that if the applicant is awarded design funds and does not complete the construction project for which the design funds were intended, within five (5) years of completion of the design activity, DHCD may be required to order repayment, from non-federal sources, for all CDBG funds expended for the design activity.

Programmatic Considerations

The activity design should account for how architectural/engineering design services will be procured and what the scope of services will entail. The application activity packet requires a detailed work plan that explains all aspects of the design activity, clarifies the responsibilities of the consultant and those of the community, and provides a completion timeline. DHCD assumes that the approved work plan in the application will become the “Scope of Services” in a grantee’s Request for Proposals for consultants.

The FY 2005 Application Package includes a Design activity packet for architectural and engineering design activities. *Do not use the Architectural Barrier Removal or Public Facilities packets unless you are applying for CDBG funds for the construction of those projects.* Also do not use the Planning packet, as architectural and engineering design will not be considered eligible as planning activities.

The application requires the applicant to discuss:

- Why the activity is needed, how the need was determined, why CDBG funds are needed, and what other sources of funding were investigated;
- Alternative approaches, not just to the architectural design of the project, but also alternative approaches to meeting the need discussed in Question 5 of the Design packet, including why the proposed alternative is the most feasible, cost effective and efficient way of addressing that need; how far along the community is in securing architectural and engineering services; a delineation of the time it will take to

accomplish each step in the design process, including procurement, within the 18-month grant period; and the reliability of the cost estimates, not just for the design services, but also the preliminary construction cost estimates on which the design fees were based; and

- The benefits anticipated from implementation of the project, both in terms of the planning process itself and of the product of that process; resources leveraged, both cash and in-kind; and the consistency of the project being considered, if constructed, with the Commonwealth's Sustainable Development Principles.

Communities are encouraged to design and implement projects that are consistent with or advance the Commonwealth's Sustainable Development Principles including re-using existing buildings and infrastructure, increasing housing opportunity, decreasing expansion into undeveloped territory, enhancing and conserving natural resources, decreasing dependence on automobiles, increasing job opportunities, and promoting regional approaches to the issues facing the Commonwealth's residents. Prior to designing a project, and in answering the questions posed in the application packet, communities should consider how the design of the project, if implemented, would balance the issues of development and conservation and pro-actively address the Commonwealth's Sustainable Development Principles.

Administration

Architectural and Engineering plans and specifications are eligible as Activity (Program) Costs. The applicant must use the appropriate packet. These design services are not considered a General Administrative function. If you are applying for a Community Development Fund grant, a portion of your General Administrative budget can be used to pay the cost of overseeing the activity, such as a share of a town planner's time or the CDBG program manager's time to oversee the architects and/or engineers.

Limitations

There are two limitations on Architectural/Engineering Design grants:

- Communities cannot apply for funds to perform a feasibility study for a project and for the design of that project in the same fiscal year. Communities may, using the Planning packet, apply for feasibility funds to undertake the following: perform environmental assessments of sites, including perc tests and test wells; pay for the development of schematic designs; and fund preliminary cost estimates. A community may only go further into design, using the Design Packet, if and when it selects a particular site to develop.
- Normally CDF II communities cannot be funded in successive grant years. However, CDF II communities that are awarded a design grant in one year may apply for construction funding for the same project the next year. The maximum CDF II grant

amount allowed for construction will be reduced by the amount of the previous year's design grant award.

Procurement of Design and Engineering Services

The process for hiring an architect is governed by the Massachusetts Designer Selection Law. The community is required to use a Designer Selection Committee to evaluate architectural proposals, rank-order the competing firms and as a rule, select from the top three. Mass. CDBG recommends that you obtain a copy of a publication produced by the state Office of the Inspector General entitled, *Designing and Constructing Public Facilities*, for specific guidance on the designer selection process in Massachusetts.

The RFP should not only require evidence that the architect or firm meets these minimum requirements, but the names and addresses of appropriate contact persons in the client communities to find out how the architect performed, how well he or she worked with local constituencies, and whether any problems came up during the project. Ideally, the architect should be registered in the Commonwealth of Massachusetts and is properly licensed to provide the services you need.

Although the State procurement requirements for engineering services may be less stringent than what is required by Federal regulations, a community must be in compliance with both. The Federal procurement requirements are governed by 24 CFR Part 85.

Procurement Considerations: Privately Owned Buildings

A key distinction between the requirements for accessibility modifications in public buildings and private buildings involves the contract awarding authority. When using CDBG or other funds to work on a public building, the municipality is awarding design and construction contracts and must meet a host of requirements that are unique to public procurement and the types of facilities involved. However, modifications to a privately owned building, such as a non-profit organization's social service center or a commercial property in the downtown, usually involves a contract between two private entities -- the property owner, and the contractor. In such cases, state procurement laws will not apply. Instead, procurement and contracting are governed by federal regulations found at 24 CFR Part 85.

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